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April 14, 2003

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, N.W.  
Washington DC 20554

**Re: Petition by the Colorado Public Utilities Commission, Pursuant to 47 C.F.R.  
§ 207(c), for Commission Agreement in Redefining the Service Area of  
CenturyTel of Eagle, Inc., a Rural Telephone Company  
CC Docket No. 96-45  
Ex Parte Communication**

Dear Secretary Dortch:

On behalf of N.E. Colorado Cellular, Inc. ("NECC"), we respectfully request that this letter be included in the above-captioned docket, and associated with CenturyTel of Eagle, Inc.'s ("CenturyTel") December 17, 2002 Application for Review or, Alternatively, Petition for Reconsideration seeking Commission review of the Commission's decision to concur with the Colorado Public Utilities Commission's ("COPUC") petition for service area redefinition. On April 8, 2003, CenturyTel submitted a letter again urging the Commission to reverse its concurrence with the COPUC petition. CenturyTel's request should be denied.

CenturyTel suggests that COPUC's review and grant of additional eligible telecommunications carrier ("ETC") designations for portions of its service area calls the wisdom of service area redefinition into question. However, competition was precisely the result foreseen by COPUC's filing. In redefining CenturyTel's service area, COPUC carefully considered the potential impact on CenturyTel from possible future petitions for ETC status by competitive carriers. COPUC properly determined that reclassifying each of CenturyTel's wire centers as a separate service area would promote competitive entry by competitive ETCs ("CETCs") in Colorado. Thus, COPUC was fully cognizant of the fact that other CETCs would be entering in the future. Rather than file a separate petition for redefinition each time a new CETC was designated, it chose the better course: to redefine all of CenturyTel's area.

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As in its past filings in this proceeding, CenturyTel fails to acknowledge that large ILEC service areas—particularly those which, like CenturyTel's, have noncontiguous areas in several parts of the state—constitute **an** obstacle to competitive entry, unfairly restricting high-cost support to ILEC monopolies. CenturyTel also fails to note that this Commission and several states have redefined ILEC service areas as proposed by COPUC, finding such redefinition a necessary and appropriate means to promote competitive entry.

The most recent examples are Minnesota and Wisconsin, where the state commissions each determined that ILEC service areas should be redefined along wire center boundaries to enable competitors to receive high-cost support on par with the incumbents. This Commission has granted its concurrence with redefinition of ILEC service areas in Arizona, New Mexico, and Washington. The latter case is notable because the Commission agreed with the redefinition of the service areas of all ILECs in the state along wire center boundaries—again, a redefinition the state proposed for the purpose of facilitating competitive entry. The following is a list of relevant decisions finding redefinition appropriate:

#### FCC Decisions

- *Petition for Agreement with Designation of Rural Company Eligible Telecommunications Carrier Service Areas and for Approval of the Use of Disaggregation of Study Areas for the Purpose of Distributing Portable Federal Universal Service Support, Memorandum Opinion and Order*, 15 FCC Rcd 9921 (1999)
- *Smith Bagley, Inc. Petitions for Agreement to Redefine the Service Areas of Navajo Communications Company, Citizens Communications Company of the White Mountains, and CenturyTel of the Southwest, Inc. on Tribal Lands within the State of Arizona*, DA 01-409 (WCB rel. Feb. 15, 2001) (effective May 16, 2001)
- *Smith Bagley, Inc. Petitions to Redefine the Service Area of Table Top Telephone Company on Tribal Lands within the State of Arizona*, DA 01-814 (WCB rel. April 2, 2001) (effective July 1, 2001)
- *Smith Bagley, Inc. Petitions to Redefine the Service Area of CenturyTel of the Southwest, Inc. in the State of New Mexico*, DA 02-602 (WCB rel. March 13, 2002) (effective June 11, 2002)

#### State Decisions

- *Smith Bagley, Inc.*, Docket No. T-02556A-99-0207 (Ariz. Corp. Comm'n Dec. 15, 2000) (FCC concurrence granted May 16 and July 1, 2001)

Marlene H. Dortch, Secretary

April 14, 2003

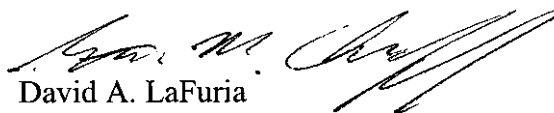
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- Midwest Wireless Communications, LLC, Docket No. PT-6153/AM-02-686 (Minn. PUC March 19, 2003) (petition for FCC concurrence to be filed)
- Smith Bagley, Inc., Utility Case No. 3026, Recommended Decision of the Hearing Examiner and Certification of Stipulation (N.M. Pub. Reg. Comm'n Aug. 14, 2001, adopted by Final Order (Feb. 19, 2002) (FCC concurrence granted June 11, 2002)
- United States Cellular Corporation, 8225-TI-I02 (Wisc. PSC Dec. 20, 2002) (petition for FCC concurrence to be filed)

Finally, because CenturyTel has submitted a plan of disaggregation that moves support away from low-cost areas and toward high-cost areas, any suggestion that NECC or other ETCs can "selectively" enter the market to CenturyTel's detriment is without merit. If a CETC enters only low-cost areas of CenturyTel, it will receive little or no support. If it enters only high-cost areas, it will receive more support. This is exactly how the system is supposed to operate. If CenturyTel still believes that it is possible for a particular entrant to receive uneconomic support, both the COPUC's rules and the Commission's rules permit it to file a request to amend its plan of disaggregation to more accurately target its costs. NECC can imagine no scenario pursuant to which a legitimate request to amend a plan of disaggregation would not be entertained.

Experience has already shown that the redefinition granted by the CPUC and the Commission will benefit rural consumers by bringing them competitive choice. NECC is rapidly signing up new customers in areas where it has been designated as an ETC, including CenturyTel's areas. It is using available high-cost support to improve its network and compete with ILECs in the local exchange marketplace. It is offering rural consumers, who pay into the universal service fund, high-quality service and the kinds of choices that consumers in urban areas now enjoy, as Congress intended. For these reasons, and those stated in the comments NECC has filed in this proceeding, the Commission should promptly dismiss CenturyTel's attempt to forestall competition and affirm the grant of COPUC's petition.

Sincerely,



David A. LaFuria

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